

PRESENTED BY:
Riley Johnson, NFIB/Montana
From NFIB Research Foundation
March 7, 2007
Before the House Judiciary Committee

II. Quick Survey of "Public Use" in the Fifty States

Property Rights	Leans toward Property Rights	Undetermined	Leans toward Government Power	Favors Government Power
California	Arizona	Alaska	Alabama	Connecticut
Delaware	Arkansas	Maryland	Florida	Idaho
Georgia	Colorado	Mississippi	Hawaii	Massachusetts
Illinois	Indiana	Montana	Iowa	Minnesota
Kentucky	Michigan	New Mexico	Kansas	New Jersey
Maine	New Hampshire	Wisconsin	Louisiana	North Dakota
Nebraska	North Carolina	Wyoming	Missouri	Virginia
Oklahoma	South Carolina		Nevada	
Oregon	Tennessee		New York	
South Dakota	West Virginia		Ohio	
Vermont			Pennsylvania	
Washington			Rhode Island	
			Texas	
			Utah	

Property Rights - These states' courts have clearly stated that economic development is not a valid "public use", or have adopted a definition so restrictive the question could not reasonably arise.

Leans Toward Property Rights - These states' courts have indicated that a restrictive definition of "public use" would apply, but is still subject to challenge.

Undetermined - These states have shown no tendency in either direction or have conflicting cases.

Leans Toward Government Power - These states' courts have indicated a willingness to expand the definition of "public use" and accommodate government interests.

Favors Government Power - These states' courts or constitutions clearly provide broad definitions of "public use", and the federal constitutional standard applies (*i.e.*, economic development can be an appropriate "public use").